

MISSOURI COURT OF APPEALS WESTERN DISTRICT

In re: The Matter of C.C.S.

BARBARA RASH,

Appellant,

v.

ROBIN WILSON,

Respondent.

DOCKET NUMBER WD75298

Date: January 29, 2013

Appeal from:
Adair County Circuit Court
The Honorable Kristie J. Swaim, Judge

Appellate Judges:
Division Two: Karen King Mitchell, Presiding Judge, Thomas H. Newton and Lisa White
Hardwick, Judges

Attorneys:
Philip J. McIntosh, Kirksville, MO; Barry V. Cundiff, Kirksville, MO, for appellant.
Lance M. McClamroch, Kirksville, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

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WD75298

Adair County

Before Division Two: Karen King Mitchell, Presiding Judge, Thomas H. Newton and Lisa White Hardwick, Judges

Barbara Rash appeals the circuit court's judgment appointing Robin Wilson to be guardian of Wilson's minor grandson, C.C.S. Rash contends that, in awarding guardianship to Wilson and denying her request for visitation, the court did not consider C.C.S.'s best interests because it did not discuss or apply the best interest factors enumerated in Section 452.375.2, RSMo Cum. Supp. 2011. Rash also asserts that the court gave undue weight to the blood relationship between C.C.S. and Wilson. Additionally, Rash argues that the judgment is against the weight of the evidence and is not supported by substantial evidence.

AFFIRMED.

Division Two holds:

(1) Rash's contention that the court did not consider C.C.S.'s best interests because it did not discuss or apply the factors in Section 452.375.2 is without merit.

First, the court was not required to make written findings on any of the issues because neither party requested written findings pursuant to Rule 73.01(c). Second, there is no express or implicit indication in Section 457.045.3, RSMo Cum. Supp. 2011, that the legislature intended for the court to apply Section 452.375.2's factors to guardianship proceedings. Third, the evidence favorable to the judgment indicates that, in appointing Wilson to be C.C.S.'s guardian and denying Rash visitation at this time, the court considered the child's best interests to a stable and permanent placement.

(2) The circuit court did not give undue weight to the biological relationship between Wilson and C.C.S. Because the competing homes are not equal, the court had no need to consider the biological relationship to award guardianship to Wilson.

(3) The judgment is not against the weight of the evidence and is supported by substantial evidence. Although the record contains evidence favorable to Rash, we do not firmly believe that the judgment appointing Wilson is wrong.

The judgment is affirmed.

Opinion by: Lisa White Hardwick, Judge

January 29, 2013

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.
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